

## **DISTRICT OF COLUMBIA TAXICAB COMMISSION**

### **THIRD NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, 20, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) (2009 Repl.), 50-313 (2009 Repl.; 2012 Supp.), 50-319 (2009 Repl.), and 50-320 (2012 Supp.)); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); and Section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); hereby gives notice of its intent to adopt amendments to Chapters 3, 5, 7, 8, and 10 of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

These rules will also comply fully with the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-184; 59 DCR 9431) (“Improvement Act”), and the Public Vehicle for Hire Innovation Amendment Act of 2013, effective April 23, 2013 (D.C. Law 19-270; 60 DCR 1717) (“Innovation Act”), both effective on October 1, 2013.

Proposed rules amending Chapters 3, 5, 6, 7, 8, and 10 of DCMR Title 31 were originally approved by the Commission for publication on February 13, 2013, and published in the *D.C. Register* on March 15, 2013, at 60 DCR 3783. The Commission held a public hearing on the proposed rules on April 12, 2013, to receive oral comments on the proposed rules. The Commission received valuable comments from the public at the hearing and throughout the comment period, which expired on April 13, 2013. A second proposed rulemaking was published in the *D.C. Register* on May 17, 2013 at 60 DCR 7048. Comments received during the comment period, which ended on June 15, 2013, were carefully considered and necessitated a third publication. The proposed rules clarify jurisdiction, procedures, and penalties to assist the Office of Taxicabs in its enforcement of Title 31, and clarify that all enforcement actions shall be governed by Chapter 7.

Directions for submitting comments may be found at the end of this notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of third proposed rulemaking in the *D.C. Register*.

**Chapter 7, COMPLAINTS AGAINST TAXICAB OWNERS OR OPERATORS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is deleted.**

**A new Chapter 7, ENFORCEMENT, is added as follows.**

## **CHAPTER 7                    ENFORCEMENT**

### **700                    APPLICATION AND SCOPE**

- 700.1                    This chapter is intended by the Commission to establish fair and consistent procedural rules for enforcement of and compliance with this title.
- 700.2                    This chapter applies to all persons regulated by this title.
- 700.3                    The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*) (“Establishment Act”), and the District of Columbia Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code §§ 50-331 *et seq.*) (“Impoundment Act”).
- 700.4                    In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, including a penalty provision, the provision of this chapter shall control.
- 700.5                    The provisions of this chapter shall apply to all matters and contested cases pending on the date of final publication, to the extent allowed by the District of Columbia Administrative Procedure Act (“DCAPA”) effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code § 2-501 *et seq.*) and other applicable law.

### **701                    ADMINISTRATIVE ISSUANCES, INSTRUCTIONS, AND PROCEDURES**

- 701.1                    The Office of Taxicabs (“Office”) may promulgate an issuance, instruction, or procedure as it deems necessary and appropriate to aid in administration, enforcement, or compliance with any provision of this title. An issuance, instruction, or procedure may be modified or rescinded at any time with reasonable notice.
- 701.2                    Each issuance, instruction, and procedure shall be in writing, and shall:
- (a)                    Interpret or explain a provision of this title or other applicable law; or
  - (b)                    Provide administrative guidance for compliance with a provision of this title or other applicable law, such as establishing application requirements for licenses including required documentation, and setting deadlines for providing to the Office information required by a provision of this title.
- 701.3                    Each issuance, instruction, and procedure shall be posted on the Commission’s website and shall become effective twenty-four (24) hours after it is posted or at such later time as stated in the issuance, instruction, or procedure provided, however, that an issuance, instruction, or procedure shall become effective upon

posting if it states that it is effective upon posting based on a determination that such action is required to protect passenger, operator, or public safety; for consumer protection; or, where otherwise permitted by law.

701.4 Failure to comply with an issuance, instruction, or procedure may result in the denial of a license or an enforcement action under § 703 for violation of any applicable provision of this title or other applicable law to which the issuance, instruction, or procedure applies.

701.5 This section shall not apply to an issuance, instruction, procedure or other document concerning the internal operations of the Office, such as a document instructing employees on how to carry out their duties.

## **702 COMPLIANCE ORDERS**

702.1 The Office or a District enforcement official (including a public vehicle inspection officer) may issue a written or oral compliance order to any person regulated by this title or other applicable law.

702.2 A compliance order may require the respondent to take any lawful action related to compliance or verification of compliance with a provision of this title or other applicable law, including, without limitation, an order to:

- (a) Appear at the Office for a meeting or other purpose provided that the order clearly states that the appearance is mandatory;
- (b) Make a payment to the District for an amount such person owes under a provision of this title or other applicable law;
- (c) Allow an administrative inspection of a place of business or business records;
- (d) Surrender, or produce for inspection and copying, a document or item related to compliance with a provision of this title or other applicable law, such as a licensing document;
- (e) Submit a vehicle for testing or inspection; or
- (f) Take an action to assist with the enforcement of a provision of this title or other applicable law.

702.3 Each compliance order shall include the following information:

- (a) The action the respondent must take to comply;

- (b) The deadline for compliance, except where it is apparent from the context, such as an order to move a vehicle from the roadway; and
- (c) If the compliance order is in writing:
  - (1) A statement of the circumstances giving rise to the order
  - (2) A citation to the relevant provision of this title or other applicable law; and
  - (3) If the order requires an action to assist the Office in enforcing a provision of this title or other applicable law against a person with whom the respondent is currently associated, the name of and contact information for such person.

702.4 A written compliance order shall be served in the manner prescribed by § 712.

702.5 The civil penalties for failure to comply with a compliance order are established as follows:

- (a) Individuals:
  - (1) Each individual who fails to timely and fully comply with a compliance order shall be subject to a civil of five hundred dollars (\$500) for the first violation, one thousand dollars (\$1,000) for the second violation, and one thousand five hundred dollars (\$1,500) for the third and subsequent violations.
  - (2) If an individual's failure to comply with a compliance order causes the Office to lose jurisdiction over an enforcement action against any person, then, in addition to a civil fine that may be imposed under subparagraph (a) (1), such individual shall pay a civil fine of one thousand dollars (\$1,000) for the first violation, two thousand dollars (\$2,000) for the second violation, and three thousand dollars (\$3,000) for the third and subsequent violations.
- (b) Entities:
  - (1) Each entity that fails to timely and fully comply with a compliance order shall be subject to a civil fine of one thousand dollars (\$1,000) for the first violation, two thousand dollars (\$2,000) for the second violation, and three thousand dollars (\$3,000) for the third and subsequent violations.
  - (2) If an entity's failure to comply with a compliance order causes the Office to lose jurisdiction over an enforcement action against any

person, then, in addition to a civil fine that may be imposed under subparagraph (b)(1), such entity shall pay a civil fine of two thousand five hundred dollars (\$2,500) for the first violation, five thousand dollars (\$5,000) for the second violation, and seven thousand five hundred dollars (\$7,500) for the third and subsequent violations.

## **703            ENFORCEMENT ACTIONS**

- 703.1            The Office may take one or more of the following enforcement actions where there are reasonable grounds to believe that a person has violated, or is violating, a provision of this title or other applicable law:
- (a)            Issue a notice of infraction (“NOI”) in accordance with § 704;
  - (b)            Issue an order to cease and desist in accordance with § 705;
  - (c)            Issue an order of immediate suspension of a license in accordance with § 706 or § 707;
  - (d)            Issue a notice of proposed suspension or revocation of a license in accordance with § 708; or
  - (e)            Issue an order of impoundment of a vehicle pursuant to the Impoundment Act.
- 703.2            In addition to any other penalty or action authorized by a provision of this title, the Office may recommend to another government agency the denial, revocation or suspension of any license that may be issued by the other agency.
- 703.3            Each respondent shall respond to a notice of an enforcement action within the time stated in the notice or, if no time for a response is stated in the notice, as specified in this chapter. Failure to respond within the time required shall subject the respondent to the civil penalties and fines imposed therein.
- 703.4            The Office may modify, supplement or withdraw any enforcement action at any time, provided such action is consistent with fundamental fairness and the due process rights of the respondent.
- 703.5            The enumeration of enforcement actions in this section shall not limit or proscribe any legal remedy available to the Commission or the Office in a court proceeding at law or in equity.
- 703.6            The Commission or Office may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any

other action authorized by law to enforce compliance with a provision of this title or other applicable law.

703.7 The circumstances giving rise to a respondent's suspension may be considered by the Office in any determination of whether to issue or renew a license to the respondent.

703.8 All impoundments of vehicles shall be conducted in compliance with the Impoundment Act.

## **704 NOTICES OF INFRACTION**

704.1 The Office or a District enforcement official (including a public vehicle inspection officer) may issue a notice of infraction ("NOI"), imposing a fine or other penalty, whenever the Office or the enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

704.2 An NOI shall be in writing in a form prescribed by the Office and shall include:

- (a) The name of the respondent;
- (b) A citation or reference to the provision of this title or other applicable law which the respondent has violated;
- (c) The circumstances giving rise to the infraction, including the time and place of the infraction;
- (d) The amount of the civil fine applicable to the infraction;
- (e) A statement that:
  - (1) The fine must be paid within thirty (30) calendar days of the date that the NOI has been served on the respondent;
  - (2) The respondent has the right to request a hearing before the Office of Administrative Hearings ("OAH"); and,
  - (3) If the respondent fails to pay the fine or request a hearing within thirty (30) calendar days of the date the NOI is served on the respondent, a penalty equal to the amount of the fine may be imposed and the respondent's license may be suspended until the fine has been paid; and,
- (f) Any other information that the Office may require.

- 704.3 An NOI shall be served and filed in the manner prescribed by § 712.
- 704.4 In response to an NOI, a respondent shall file a written answer with OAH within thirty (30) days of the date the NOI is served on the respondent. The answer shall:
- (a) Admit the infraction and pay the fine;
  - (b) Admit the infraction with an explanation, and providing any supporting documentation; or
  - (c) Deny the infraction and request a hearing.
- 704.5 Payment of the fine shall not relieve the respondent of the obligation to abate the infraction cited in the NOI.
- 704.6 If a respondent admits an infraction in the NOI, the respondent shall include payment of the fine with his or her answer. If respondent pays the stated fine but fails to indicate a specific answer, the respondent shall be deemed to have admitted the infraction.
- 704.7 If a respondent responds to an NOI, does not pay the stated fine, and fails to state an answer as required by § 704.4, the respondent shall be deemed to have denied the infraction.
- 704.8 If the respondent admits an infraction with an explanation, the respondent shall state on the NOI whether the respondent requests a hearing on the papers or an in-person hearing. The OAH may hold an in-person hearing in its sole discretion.
- 704.9 If a respondent denies an infraction, OAH may schedule an in-person hearing in accordance with its rules.
- 704.10 If a respondent does not answer the NOI within thirty (30) calendar days:
- (a) OAH shall issue a default order; and
  - (b) A civil penalty equal to the amount of the fine imposed by the NOI shall be imposed by OAH in the default order.
- 704.11 A civil penalty, including a fine, may be downwardly modified by OAH if:
- (a) The downward modification is not inconsistent with the provision of this title or other applicable law which is the basis for the penalty;
  - (b) The Office is provided with an opportunity to present to OAH its opinion on a proposed downward modification or fine reduction; and

- (c) The downward modification is based on a consideration of all relevant mitigating and aggravating factors.

## **705 CEASE AND DESIST ORDERS**

- 705.1 If the Office has reason to believe that a person is violating a provision of this title or other applicable law and the violation has caused or may cause immediate and irreparable harm to the public, the Office may issue a cease and desist order requiring the person to immediately, or within a specified period of time, cease the conduct or activity which is allegedly in violation of a provision of this title or other applicable law.
- 705.2 A cease and desist order shall be in writing in a form prescribed by the Office and shall include:
- (a) The grounds for the order, including a citation to the law or regulation that the respondent is violating;
  - (b) A statement identifying the conduct which the respondent must cease, or the action the respondent must take, in order to correct the violation;
  - (c) The deadline by which such conduct must cease or such action must be taken. The date and time may be immediately upon service of the order;
  - (d) A statement that the respondent has a right to a hearing before OAH if the respondent requests a hearing, in writing, within fifteen (15) calendar days of service of the order or request;
  - (e) A statement explaining the process by which the respondent may request a hearing; and
  - (f) A statement that the respondent's request for a hearing shall not stay, suspend, or delay the effectiveness or enforcement of the order.
- 705.3 A cease and desist order shall be served and filed in the manner prescribed by § 712.
- 705.4 Upon receipt of a timely request for a hearing, OAH shall conduct a hearing within fifteen (15) calendar days after the date of receipt of the request and shall issue a decision within thirty (30) calendar days after the close of the record in the OAH proceedings.
- 705.5 If the respondent does not request a hearing in writing within fifteen (15) calendar days after service of the cease and desist order, OAH shall issue a default order



pursuant to its procedures. The default order shall incorporate the requirements, terms, and conditions of the cease and desist order.

705.6 A cease and desist order shall be enforced pending a final decision on the merits.

705.7 If a respondent fails to comply with a cease and desist order, the Commission or Office may, through the Office of the Attorney General, petition the District of Columbia Superior Court for injunctive relief, or take any other action authorized by law to enforce compliance with a provision of this title or other applicable law.

## **706 IMMEDIATE SUSPENSION OF A VEHICLE OPERATOR'S LICENSE**

706.1 The Office may order the immediate suspension of a license allowing an individual to operate a public vehicle-for-hire whenever the Office has reasonable grounds to believe the respondent poses an imminent danger to the public.

706.2 A determination under § 706.1 shall be based on evidence that the respondent:

- (a) Has committed murder, manslaughter, mayhem, malicious disfiguring of another, arson, abduction, kidnapping, burglary, theft, breaking and entering, robbery, larceny, assault or battery, or any other felony;
- (b) Has committed a sexual offense proscribed by D.C. Official Code § 22-1901 (incest), §§ 22-3101 to 22-3103 (sexual performance using minors), § 22-2701 to § 22-2722 (prostitution and pandering), §§ 22-3002 to 22-3020 (sexual abuse), or § 22-1831 *et seq.* (human trafficking);
- (c) Has violated the District of Columbia Uniformed Controlled Substances Act of 1981 effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*) or the Drug Paraphernalia Act of 1982 effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.*);
- (d) Has committed a criminal act outside the District which, if committed in the District, would fall into one of the categories in § 706.2 (a)-(c);
- (e) Has committed a criminal offense in connection with the operation of a vehicle which is licensed by the Office as a public vehicle-for-hire;
- (f) Has violated a traffic regulation in a manner that reflects recklessness, gross negligence, depravity; or wanton disregard for the safety of other persons or property; or
- (g) Has acted or failed to act in any manner which otherwise poses an imminent threat to the health or safety of passengers, operators, or the public, or to consumer protection or passenger privacy.

- 706.3 In determining whether a respondent poses an imminent danger to the public, the Office may consider any and all relevant evidence, including evidence which may not be admissible in a criminal, civil, or administrative proceeding, including without limitation a statement against interest, an admission, an arrest record, or court order.
- 706.4 Each order of immediate suspension shall be in writing and shall state:
- (a) The grounds for the immediate suspension;
  - (b) The terms and conditions applicable to the suspension (if any), including any deadlines;
  - (c) That the matter will be scheduled for a hearing at OAH consistent with § 706.6 within three (3) business days after issuance of the order of immediate suspension; and
  - (d) Notice that the respondent's request for a hearing before OAH or referral of the matter to OAH shall not stay, suspend, postpone, or delay the effectiveness of the order of immediate suspension.
- 706.5 Each order of immediate suspension shall be served and filed in the manner prescribed by § 712.
- 706.6 A initial hearing shall be held before OAH within three (3) business days of service of the order on the respondent, for the limited purpose of determining whether the Office has sufficient evidence to establish that reasonable grounds exist to support its the determination that the respondent poses an imminent danger to the public for reasons described in § 706.2.
- 706.7 At an initial hearing held pursuant to § 706.6, either party may request an evidentiary hearing before OAH on the order of immediate suspension. If a party requests an evidentiary hearing, OAH shall hold the evidentiary hearing within fifteen (15) calendar days of service of the order on the respondent.
- 706.8 A finding that a respondent poses an imminent danger to the public may be made by the Office or by OAH shall be based on the full evidence presented, but without regard to any of the following factors:
- (a) The respondent has not been arrested, charged, prosecuted, presented, indicted, or convicted of a crime in connection with the facts giving rise to the finding;
  - (b) There is a judgment other than one of conviction against the respondent in a related criminal proceeding;

- (c) The respondent has not been charged with a related civil infraction by an agency other than the Office in connection with the facts giving rise to the finding;
- (d) There is a judgment other than one finding the respondent liable in a related administrative proceeding instituted by an agency other than the Office; and
- (e) There is an absence of prior, similar misconduct by the respondent.

706.9 If OAH determines at an initial hearing held pursuant to § 706.6 that the Office has sufficient evidence to support a finding that the respondent poses an imminent danger to the public for reasons described in § 706.2, the order of immediate suspension shall remain in effect without modification by OAH until the time so noted in the order of immediate suspension or until a final ruling on the merits on a notice of proposed suspension or revocation issued pursuant to § 708, whichever is later.

706.10 A notice of proposed suspension or proposed revocation shall be issued concurrently with an order of immediate suspension.

## **707 IMMEDIATE SUSPENSION OF A LICENSE OTHER THAN A VEHICLE OPERATOR'S LICENSE**

707.1 The Office may order the immediate suspension of a license other than a license allowing an individual to operate a public vehicle-for-hire whenever the Office has reasonable grounds to believe the respondent poses an imminent danger to the public.

707.2 A determination under § 707.1 shall be based on evidence that the respondent:

- (a) Has committed a willful or repeated violation of any provision of this title or other applicable law which carries a civil penalty of at least five hundred dollars (\$500) for the current or most recent violation or for which license suspension is stated as an available civil penalty;
- (b) Has allowed or suborned activity by another person which would provide a ground for such person's suspension or revocation under this chapter; or
- (c) Poses an imminent or significant threat to the health or safety of passengers, operators, or the public or to consumer protection, or passenger privacy.

707.3 In determining whether a respondent poses an imminent danger to the public, the Office or District enforcement official may consider any and all relevant evidence, including evidence which may not be admissible in a criminal, civil, or

administrative proceeding, including without limitation a statement against interest, an admission, an arrest record, or court order.

707.4 An order of immediate suspension shall be served and filed in the manner prescribed by § 712 and shall comply with the requirements of § 706.4.

707.5 Section 706.8 shall apply to all proceedings under this section. The adjudication of an order of immediate suspension of a license under this section shall be as set out in § 706.6, § 706.7 and § 706.9.

707.6 A notice of proposed suspension or proposed revocation shall be issued concurrently with each order of immediate suspension.

## **708 NOTICE OF PROPOSED SUSPENSION OR REVOCATION OF A LICENSE**

708.1 Proposed suspension. The Office may issue a notice of proposed suspension of a license issued under this title based on any of the following grounds:

- (a) A material misrepresentation, fraud, or concealment of material information in a communication with the Commission or the Office in a document provided to the Commission or the Office, or in connection with an activity for which the respondent is licensed;
- (b) A determination that the respondent no longer meets the requirements for the license it was issued by the Office;
- (c) A determination that a basis for suspension exists pursuant to a provision of another chapter of this title;
- (d) The existence of one or more grounds for suspension of a license pursuant to § 706.2 or § 707.2, without regard to whether the Office has issued an order of immediate suspension;
- (e) A criminal conviction involving fraudulent conduct, or in the case of an entity, a determination that an employee, agent, or independent contractor associated with the entity has been convicted of such conduct in connection with any activity regulated by this title;
- (f) The use or subornation of a fraudulent or misleading device, method, or practice relating to any activity regulated by this title;
- (g) A willful or repeated failure to obey one or more compliance orders issued by the Office;

- (h) A willful or repeated failure to comply with one or more orders issued by OAH;
- (i) A willful or repeated failure to pay one or more civil fines imposed by the Office; or
- (j) A willful or repeated failure to comply with one or more provisions of this title or applicable law.

708.2 Proposed revocation. The Office may issue a notice of proposed revocation of a license issued under this title based on any of the following grounds:

- (a) The respondent's license is currently, or was previously, suspended under § 706, § 707, or § 708.1;
- (b) The respondent has committed substantial or repeated acts that constitute grounds for immediate suspension under § 706.2 or § 707.2, without regard to whether the Office has issued an order of immediate suspension;
- (c) The respondent has committed substantial or repeated acts that constitute grounds for proposed suspension under § 708.1;
- (d) A determination that a basis for revocation exists pursuant to a provision of another chapter of this title; or
- (e) The respondent has failed to timely and fully comply with the terms and conditions of an order of suspension, or has committed further violations of this title or other applicable law during the pendency of a suspension.

708.3 A notice of proposed suspension or proposed revocation shall be issued concurrently with each order of immediate suspension.

708.4 A notice of proposed suspension or proposed revocation of a license shall be in writing and shall state:

- (a) The grounds for the proposed suspension or revocation;
- (b) The date on which the proposed suspension or revocation will become effective which shall be no sooner than thirty-one (31) calendar days following service of the notice;
- (c) If a proposed suspension is for a time certain, the duration of the suspension; or, if the suspension is for an indefinite period of time, the terms upon which the license may be reinstated in full;
- (d) A statement:

- (1) That the respondent has the right to request a hearing before the OAH within thirty (30) calendar days of service of the notice
- (2) Explaining the process for requesting a hearing; and,
- (3) That, if the respondent fails to file an appeal within thirty (30) calendar days, the proposed suspension or revocation shall become final.

708.5 No proposed suspension shall extend beyond the current licensing period. The suspension of a license is a factor that shall be considered by the Office at the time of renewal of a license issued under this title.

708.6 A notice of proposed suspension and a notice of proposed revocation shall be served and filed in the manner prescribed by § 712.

## **709 LICENSING DOCUMENTS**

709.1 The terms stated or incorporated by reference in each licensing document shall constitute a compliance order to the licensee.

709.2 If a licensing document states that it is temporary, it shall be valid and effective for all purposes under this title throughout the period stated therein.

709.3 No person, other than a District enforcement official or other person authorized by law, shall duplicate or transfer to another person any licensing document except with written permission from the Office or in compliance with § 814.8 or § 822.2. Such action shall constitute fraud for purposes of this chapter.

## **710 PUBLIC COMPLAINTS**

710.1 The Office shall receive oral and written complaints by members of the public through the following means: by telephone, through the Commission's website, by email, in person, by U.S. Mail, by fax, or by private delivery service.

710.2 An oral complaint shall not be the basis of further action by the Office unless it has been reduced to writing.

710.3 The Office shall notify each complainant that his or her complaint has been received within seventy-two (72) hours of receiving a complaint submitted in writing or within seventy-two (72) hours after receiving a written complaint which had been originally submitted orally. The notice shall be provided by U.S. Mail, email, or telephone call using the contact information provided by the complainant.

- 710.4 A public complaint shall be pursued by the Office if submitted within thirty (30) days following the event or occurrence giving rise to the complaint, provided however, that a complaint alleging that any individual suffered personal injury or engaged in criminal misconduct in connection with a public vehicle-for-hire service may be pursued by the Office if submitted within twelve (12) months after the event or occurrence giving rise to the complaint.
- 710.5 Unless the Office determines that a public complaint is not actionable, it shall notify the respondent of the complaint within fourteen (14) calendar days after the public complaint has been submitted to the Office.
- 710.6 Each respondent who is the subject of a complaint shall be notified in writing that the complaint has been submitted and be given the opportunity for mediation in accordance with § 711.
- 710.7 The Office shall initiate any enforcement action based on a timely complaint not later than sixty (60) calendar days after the completion of mediation as described in § 711.
- 711 MEDIATION**
- 711.1 Mediation shall consist of an informal and voluntary meeting between the Office and the respondent, at a time and place designated by the Office, for the purpose of addressing a public complaint it has received, or an enforcement action it has filed or may file.
- 711.2 The Office shall extend an invitation to mediate when a public complaint is filed or when the Office is considering the issuance of an order of immediate suspension of a license, and may, in its discretion, extend an invitation to mediate any other matter.
- 711.3 A respondent shall not be required to participate in mediation. An invitation to mediate shall not be considered a compliance order pursuant to § 702.2.
- 711.4 Mediation shall be scheduled by the Office to occur within a reasonable period, provided, however, that where the Office is considering an immediate suspension, the mediation shall be scheduled for not later than three (3) business days following service of the invitation. Mediation that follows a public complaint shall not be scheduled until the invitation to mediate is accepted by the respondent.
- 711.5 An invitation to mediate shall be accepted by the respondent not later than the deadline set by the Office, provided, however, that the deadline shall be ten (10) calendar days following service if the invitation is based on a public complaint, and two (2) business days if the Office is considering the issuance of an order of immediate suspension.

- 711.6 Each invitation to mediate shall be in writing and:
- (a) Shall state the designated time and location for the mediation session in accordance with § 711.4;
  - (b) Shall state the deadline for acceptance of the invitation, as prescribed by § 711.5;
  - (c) Shall provide a description of the circumstances giving rise to the invitation;
  - (d) Shall state that the Office may take an enforcement action in connection with the circumstances giving rise to the invitation, identifying the applicable regulations and potential penalties;
  - (e) May include a request that the respondent bring with it, or submit in advance, documents or information.
- 711.7 Each invitation to mediate shall be served in the manner prescribed by § 712.
- 711.8 If the Office receives a timely acceptance from the respondent and the respondent appears on time for mediation, the Office shall mediate the matter as stated in the invitation. If the Office does not receive a timely acceptance from the respondent or the respondent does not appear on time for mediation, the Office may initiate an enforcement action.
- 711.9 The Office may reschedule a mediation one time for good cause shown provided the request to reschedule is received by the Office not later than: three (3) business days before the mediation date, the deadline for acceptance of the invitation where the Office is considering the issuance of a notice of immediate suspension, or a shorter period if exigent circumstances (such as hospitalization) exist and are supported by appropriate documentation.
- 711.10 At mediation, the parties may negotiate and reach agreement on any penalty that would be available if an enforcement action were taken (including a full or partial payment of a civil fine), admission of liability, execution of a compliance agreement or consent decree, suspension or revocation of a license, or any other relief authorized by law.
- 711.11 No fact related to or concerning mediation shall be admissible in the adjudication of an enforcement action, including without limitation whether a mediation session occurred or did not occur, whether a mediation session was rescheduled or not, and the substance or fact of a party's offer to compromise, provided, however, that any information or document not created in anticipation of mediation or which rebuts an allegation by the respondent that it was not given notice shall be admissible regardless of whether it was obtained in connection



with mediation. An enforcement action shall not be limited to the circumstances, evidence, civil infraction, or potential penalty stated in an invitation to mediate provided any change is based on subsequently-acquired information, further investigation, or additional analysis.

## **712 SERVICE AND FILING**

712.1 Each written compliance order issued pursuant to § 702, each enforcement action authorized by § 703 other than an order of impoundment of a vehicle, and each invitation to mediate issued pursuant to § 711 shall be served by one of the following methods, unless a different method of service is required by law:

- (a) By personal service upon the respondent or the respondent's agent, through delivery of the document to the last known home or business address of the respondent, or the respondent's agent, on file with the Office and leaving the document with a person over the age of sixteen (16) years old residing or employed at that address by handing the notice or order to such individual;
- (b) By posting the document in a conspicuous place in or about the location of respondent's place of business; or
- (c) By depositing the document into first-class U.S. Mail, addressed to the last known home or business address of the respondent, or respondent's agent, on file with the Office Service.

712.2 Service pursuant § 712.1 (c) is complete at the time the document is actually deposited into the U.S. Mail, regardless of whether an earlier or later date or time is stamped on the envelope..

712.3 An individual licensed by the Commission who defaces, alters, or removes a document posted pursuant to § 712.1 (b) without the approval of the Office shall be subject to a civil fine in the amount of one thousand dollars (\$1,000).

712.4 An entity licensed by the Commission that allows or induces an individual to deface, alter, or remove a document posted pursuant to § 712.1 (b) without the approval of the Office shall be subject to a civil fine in the amount of two thousand five hundred dollars (\$2,500).

712.5 Each document subject to service under § 712.1, other than a compliance order or invitation to mediate, shall be filed promptly with OAH in a manner prescribed by OAH rules.

## **713 REPRESENTATION**

- 713.1 Each person may designate a representative to act or appear on its behalf before the Office the Commission in connection with any matter arising under this title.
- 713.2 No person, other than a representative designated pursuant to § 713.1, shall act or appear on behalf of another person before the Office or the Commission.

### **Subsection 799.1 is amended to read as follows:**

- 799.1 The terms “adjudication,” “contested case,” “declaratory order,” “party,” “person”, and “license” shall have the meanings ascribed to them in the District of Columbia Administrative Procedure Act, effective October 8, 1975, (D.C. Law 1-19, D.C. Official Code § 2-502 *et seq.*).

### **A new Subsection 799.2 is added to read as follows:**

- 799.2 The following words and phrases shall have the meanings ascribed:

**“Complainant”** – a member of the public who submits a complaint.

**“District enforcement official”** – a public vehicle inspection officer (hack inspector) or other authorized official, employee, or general counsel of the Office, or any law enforcement official authorized to enforce a provision of this title or other applicable law.

**“Licensing document”** – A physical or electronic document issued by the Office as evidence that a person has been granted a license, such as a commercial operator’s identification card.

**“Office”** – the Office of Taxicabs as established by D.C. Official Code § 50-312.

**“Public vehicle-for-hire”** – (A) a passenger motor vehicle operated in the District by an individual or any entity that is used for the transportation of passengers for hire, including as a taxicab, limousine, or sedan; or (B) another private passenger motor vehicle that is used for the transportation of passengers for hire but is not operated on a schedule or between fixed termini and is operated exclusively in the District, or a vehicle licensed pursuant to D.C. Official Code §47-2829, including taxicabs, limousines, and sedans.

**“Respondent”** – a person (individual or entity) that is the subject of a compliance order, public complaint, invitation to mediate, or enforcement action.

**“Revocation”** – the permanent recall or annulment of the privilege or authority granted by a license without opportunity for reinstatement.

**“Suspension”** – a temporary bar from the privilege or authority conferred by a license for a fixed period, or for an indefinite period pending the satisfaction of a term or condition stated in the notice of suspension.

**Chapter 3, PANEL ON ADJUDICATION: RULES OF ORGANIZATION AND PROCEDURE, is repealed and reserved.**

**Chapter 5, TAXICABS COMPANIES, ASSOCIATIONS, AND FLEETS AND INDEPENDENT TAXICABS, is amended as follows:**

**A new section 519 is added to read as follows:**

**519 ENFORCEMENT OF THIS CHAPTER**

519.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

**Section 510, COMPLIANCE WITH LICENSING REQUIREMENTS; SUSPENSIONS AND REVOCATIONS, is amended as follows:**

**Subsection 510.3 is repealed.**

**Section 518, PENALTY, is amended as follows:**

Subsections 518.2 and 518.3 are repealed.

**Chapter 8, OPERATION OF TAXICABS, is amended as follows:**

**Section 826, FILING OF COMPLAINTS, is amended to read as follows:**

**826 ENFORCEMENT OF THIS CHAPTER**

826.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

**Chapter 9, INSURANCE REQUIREMENTS, is amended as follows:**

**A new section 908 is added to read as follows:**

**908 ENFORCEMENT OF THIS CHAPTER**

908.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

**Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 1002, APPLICATION FOR A HACKER'S LICENSE; FEES, is amended as follows:**

**Subsection 1002.10 is amended to read as follows:**

1002.10        The denial of a hacker's license for failure to successfully take and pass the written examination is not reviewable on appeal.

**Section 1013, COMPLAINTS AGAINST OPERATORS OF PUBLIC VEHICLES FOR HIRE, is amended to read as follows.**

**1013            ENFORCEMENT OF THIS CHAPTER**

1013.1        The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

**Chapter 13, LICENSING AND OPERATIONS OF TAXI METER COMPANIES, is amended as follows:**

**A new section 1332 is added to read as follows:**

**1332            ENFORCEMENT OF THIS CHAPTER**

1332.1        The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

**Chapter 15, LICENSING AND OPERATIONS OF DOME LIGHT INSTALLATION COMPANIES, is amended as follows:**

**Section 1531, DOME LIGHT INSTALLATION BUSINESS - PENALTIES FOR VIOLATIONS, is amended as follows:**

Subsections 1531.3, 1531.4, and 1531.5 are repealed.

**1532            ENFORCEMENT OF THIS CHAPTER**

1532.1        The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques P. Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Jacques P. Lerner, General Counsel and Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.